

COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF TELCOMMUNICATIONS AND ENERGY

Complaint of DSCI Corporation)	
For Declaratory Orders to Ensure)	Docket No. 05-28
Verizon-Massachusetts Compliance)	
With Resale Obligations with Respect)	
To Customer Specific Pricing Contracts)	

INITIAL BRIEF OF PETITIONER DSCI CORPORATION

Procedural History

This Complaint for Declaratory Orders and Request for Expedited Review ("Complaint") by Petitioner DSCI Corporation ("DSCI") requests that the Department of Telecommunications and Energy ("Department" or "DTE") address certain unlawful practices of Verizon-New England, Inc. ("Verizon") that have prevented DSCI from reselling Verizon customer specific pricing ("CSP") contracts and similar arrangements to DSCI end user customers, as required by law.¹ DSCI submitted the Complaint on March 24, 2005, pursuant to G.L. c. 159, §§ 10, 12-14, 16 and 19, and 220 CMR 1.04, as well as 47 U.S.C. § 251(c)(4) and 47 CFR §§ 51.601 et seq., and the unlawful practices have been ongoing and require immediate redress from the Department.

Following Verizon's Answer, the Department conducted a public hearing and procedural conference on May 17, 2005.² Pursuant to the procedural schedule, DSCI

¹ CSPs also can be referred to as "Contract Services Arrangements," "Special Pricing Arrangements," or "Individual Case Basis Rates." See Exhibit ("Exh.") DSCI-1 (DTE Notice to Massachusetts Telecommunications Carriers, April 6, 2004, Use of Contract Services Arrangements) at p. 1. As used herein, CSP refers to all such special contract arrangements.

² The Hearing Officer accepted DSCI's proof of publication in the Boston Globe and Boston Herald newspapers. No members of the public appeared to give testimony at the public hearing.

submitted the pre-filed testimony of its President, Sean Dandley (“Dandley Testimony”).³ Verizon propounded no discovery with respect to Mr. Dandley’s testimony. Verizon filed the pre-filed testimony of Carolyn Jussaume, Corporate Account Manager for Verizon’s retail accounts with Commonwealth of Massachusetts; and Pamela McCann, Executive Director for Wholesale Marketing and Sales for Verizon Services Corporation (“Jussaume Testimony” and “McCann Testimony,” respectively).⁴ On June 27, 2005, Verizon responded to discovery requests from the Department (DTE 1-1 to 1-3) and from DSCI (DSCI 1-1 to 1-11) but objected to requests DSCI 1-6 and 1-7. Following the Department’s order granting in part DSCI’s Motion to Compel, Verizon submitted supplemental responses to both requests on the morning of the July 26, 2005 evidentiary hearing.

At the July 26, 2005 hearing, Mr. Dandley, Ms. Jussaume and Ms. McCann were made available for cross-examination.⁵ Exhibits DSCI-1 to 20, DSCI-VZ-1 to 11, DTE-VZ-1 to 3, and VZ-1 to 4 were marked and later admitted into evidence.⁶ Verizon responded to Record Request DSCI-VZ-1 and Record Requests DTE-VZ-1 to 3 and 5 on August 2, 2005. On August 5, 2005, Verizon filed a response to Record Request DTE-VZ-4 and a request for protective treatment concerning the name of the referenced competitive local exchange carrier (“CLEC”) in Verizon’s response to DTE-VZ-1-1.

³ Exh. DSCI-18.

⁴ Exhs. VZ-1, VZ-2.

⁵ See generally July 26, 2005 evidentiary hearing transcript, at pp. 1 to 106 (hereinafter “Tr. 1-106”).

⁶ Note that Verizon’s supplemental responses to interrogatories DSCI 1-6 and 1-7 were admitted as Exhs. DSCI-VZ-6 Supp and DSCI-VZ-7 Supp.

Argument

I. Legal Standards Applicable to Resale to CLECs of CSPs

In a CSP, Verizon Retail responds to a competitive situation by negotiating rates, terms and conditions for a customer different from (and ordinarily at a substantially lower price than) standard tariff offerings.⁷ Under longstanding Department precedent and in compliance with statutory tariff requirements at G.L. c. 159, § 19, Verizon codifies CSP arrangements in a contract with the customer and, in turn, memorializes the principal terms in a tariff filing.⁸ CSP arrangements are available for resale at a wholesale discount, representing Verizon's avoided costs, to similarly situated customers pursuant to Verizon's tariffs,⁹ the terms of the DSCI-Verizon interconnection agreement ("ICA"),¹⁰ and applicable law, including 47 U.S.C. §251(c)(4) and 47 CFR §§ 51.601 et seq.

Specifically, the general resale obligation in § 251(c)(4) provides that ILECs are required:

"(A) to offer for resale at wholesale rates any telecommunications service that the carrier provides at retail to subscribers who are not telecommunications carriers; and

(B) not to prohibit, and not to impose unreasonable or discriminatory conditions or limitations on, the resale of such telecommunications service...."¹¹

⁷ See Exh. DSCI-1 (Department order on use of customer service arrangements); see also Exh. 18 (Dandley Testimony) at 9 (observing that COMA Contract is 50% to 62% below standard resale pricing).

⁸ See id. at p. 2; see generally Investigation by the Department on its Own Motion into the Propriety of AT&T Network Services Tariff, D.P.U. 90-24 (1991).

⁹ Verizon Tariffs, DTE No. 14, Section 5.3.4 ("Services that the Telephone Company provides to its end users on a customer specific basis under DTE MA No. 12, will be made available for resale....").

¹⁰ See Verizon Bullseye ICA adopted by DSCI at pp. 77-79 (Resale Attachment) and Section 3.3 (CSPs and similar arrangements are available for resale).

¹¹ Id. (emphasis added).

In turn, Section 51.605 of Title 47 of the Code of Federal Regulations codifies these resale obligations. Subsequent sections limit the ability of ILEC to impose class restrictions on resale.¹² These regulations provide that any other ILEC class restrictions on resale of a CSP beyond banning resale of ILEC residential services to a CLEC's business customers and vice versa are presumptively invalid unless the ILEC proves to the satisfaction of a reviewing state agency that the restrictions are both "reasonable and nondiscriminatory."¹³

No prior decisions of the Department address CSP resale issues. As discussed in Mr. Dandley's pre-filed testimony, the availability of more attractive UNE-P rates limited the need for CLECs to explore use of CSP resale.¹⁴ The relatively few cases discussing CSP resale issues in other jurisdictions are set forth below in the footnote.¹⁵ In its order granting Verizon's Section 271 InterLATA application for Massachusetts, the Federal Communications Commission ("FCC") confirmed Verizon's commitment to facilitate resale of CSPs (referred to as CSAs in the FCC order below) as follows:

"....Verizon says that it commits in its interconnection agreements and tariffs to making its retail services available to competing carriers at wholesale rates.... [and] applies the wholesale discount to customer specific arrangements (CSAs)... Competing carriers may purchase at the wholesale discount CSAs to resell to new customers. Verizon permits competing carriers that resell CSAs to meet minimum volume requirements by aggregating the traffic of multiple end-user

¹² 47 CFR § 51.613(a)(1).

¹³ Id.; 47 CFR § 51.613(b).

¹⁴ Exh. DSCI-18 (Dandley Testimony) at 4.

¹⁵ Application of Bell South, et al. to Provide In-Region, InterLATA Services in South Carolina, 13 F.C.C.R. 539, Memorandum Opinion and Order (1997), ¶¶ 215-223 (confirming that CSPs and similar arrangements are subject to resale at a wholesale discount under 47 U.S.C. § 251(c)(4)); U.S. West v. Hix, 183 F. Supp. 2d 1249, 1255-57 (D.C. Colo. 2000)(same); see also Application of Verizon, et al. for Authorization to Provide In-Region InterLATA Services in Massachusetts, 16 F.C.C.R. 8988, Memorandum Opinion and Order (2001), ¶ 217.

customers, provided that those customers are similarly situated to the customer(s) of Verizon's original contract.¹⁶

II. Overview of DSCI CSP Resale Claims

Subsequent to the February 4, 2004 order by the FCC requiring CLECs to transition away from serving their customers via the unbundled element platform (“UNE-P”),¹⁷ Verizon offered CLECs alternative serving arrangements including a commercially-negotiated UNE-P substitute and resale options pursuant to 47 U.S.C. § 251(c)(4) and state law.¹⁸ DSCI discussed several options with Verizon beginning in July 2004, including aggregating DSCI’s customer base and transitioning it to Verizon’s CSP with the Commonwealth of Massachusetts (“COMA Contract”) on a resale basis.¹⁹ The COMA Contract rates, consisting of monthly charges inclusive of the End User Common Line Charge, represent a very attractive discount of 50% to 62% from standard retail pricing.²⁰

DSCI made clear its intent to conclude one or more CSP resale arrangements beginning in Fall, 2004.²¹ At Verizon’s urging, DSCI provided a “formal” request to

¹⁶ Application of Verizon, et al. for Authorization to Provide In-Region InterLATA Services in Massachusetts, 16 F.C.C.R. 8988, Memorandum Opinion and Order (2001), ¶ 217 (emphasis added).

¹⁷ See generally In the Matter of Unbundled Access to Network Elements and Review of the Section 251 Unbundling Obligations of ILECs, WC Docket 04-313, CC Docket 01-338, FCC 04-290, Order on Remand (2004).

¹⁸ Exh. DSCI-18 (Dandley testimony) at 5; see Exh. DSCI-3 (Verizon letter to DSCI noticing the upcoming discontinuation of UNE-P and identifying alternative service options, including resale under Section 251(c)(4)).

¹⁹ Exh. DSCI-18 (Dandley testimony) at 5.

²⁰ Exh. DSCI-18 (Dandley Testimony) at 9; Exhibit DSCI-4 (Verizon Tariff MA DTE No. 12, Part A, Section 4) at pp. 24-28.

²¹ Exh. 18 (Dandley Testimony) at 5.

resell the COMA Contract in October, 2004.²² DSCI also sought information on usage arrangements that could be combined with the resold COMA Contract to offer a full suite of services to DSCI's customers, including the so-called Customer 38 Contract (also with the Commonwealth of Massachusetts).²³ Additionally, in order to serve a particular DSCI customer (Colonial Automotive Group) which had received a competing CSP offer from Verizon, DSCI made requests as to the applicability for resale of several CSPs that had similar pricing terms.²⁴

Following nearly six months of frustration on DSCI's part, outlined in paragraphs 16-45 of the Complaint and associated Exhibits, DSCI was forced to file the instant Complaint. As discussed in more detail below, despite some additional progress from Verizon, DSCI still has not managed to resell a Verizon CSP to a single DSCI customer.²⁵

III. Specific Claims and Requests for Relief

A. Verizon Cannot Limit DSCI's Resale of the COMA Contract to Verizon's Own Customer Classes Without a Valid Basis in Cost of Service.

After apparent agreement between DSCI and Ms. McCann's wholesale group regarding use of the COMA Contract to serve all of DSCI's customer base and weeks of joint planning sessions, Verizon's counsel issued a March 3, 2005 letter advising DSCI that DSCI could only resell the COMA Contract to the customer classes enumerated in the agreement between Verizon and the Commonwealth (i.e., state and local agencies and

²² Tr. 21-22 (Dandley hearing testimony that in midst of substantive discussions Verizon asked DSCI to provide a formal request for resale).

²³ Exh. DSCI-11 (Customer 38 tariff).

²⁴ Exh. 18 (Dandley Testimony) at 8-9.

²⁵ Id. at 5; Tr. 40 (Dandley hearing testimony).

a limited set of non-agency “eligible entities”).²⁶ The end result of this position is to limit DSCI’s ability to resell the COMA Contract only to the portion of DSCI’s customer base representing agency customers. Verizon has not met its burden under 47 CFR 51.613(a) and (b) of showing that this customer class limitation on DSCI’s resale of the COMA Contract is reasonable and nondiscriminatory. Accordingly, the Department should invalidate Verizon’s anti-competitive limitation on DSCI’s ability to resell the COMA Contract.

Verizon has admitted it has no cost basis for limiting resale of the COMA Contract to the entities specified in the CSP.²⁷ This leaves Verizon’s conclusory justifications for limiting DSCI’s resale rights that were revealed to be wholly unreasonable and without legal basis during discovery and the evidentiary hearings. Verizon’s essential argument is that Commonwealth is a “unique customer”²⁸ but points to nothing that distinguishes the Commonwealth from any other large enterprise business customer. Like the Commonwealth, large commercial customers (1) have substantial telecommunications needs and can take advantage of their size and scope to drive hard bargains with the telecommunications providers (including Verizon) that voluntarily choose to pursue those business opportunities;²⁹ (2) use complex Requests for

²⁶ The March 3, 2005 e-mail from Verizon seeking to clear up “confusion” over the scope of the COMA CSP is admitted as Exh. DSCI-10.

²⁷ Response to RR-DTE-VZ-2; see Tr. 75-77 (cross examination by Mr. Isenberg).

²⁸ Exh. VZ-1 (Jussaume Testimony) at 2, 6-7. Note that Ms. McCann’s testimony regarding the alleged “uniqueness” of the Commonwealth is based exclusively on Ms. Jussaume’s testimony and is not based on her independent knowledge or testimony. Exh. VZ-2 (McCann Testimony) at 5; Tr. 85-86 (McCann hearing testimony).

²⁹ Tr. 59-60.

Information and Requests for Proposals in soliciting telecommunications agreements;³⁰ (3) often require dedicated staff at Verizon and the end user;³¹ and (4) can and do include entities other than themselves in telecommunications proposals, including affinity groups such as Chambers of Commerce.³² While relied on heavily as a determinative factor by Ms. Jussaume,³³ the fact that the Commonwealth's RFP is governed by State Procurement laws is immaterial to the issue of whether it can be resold to customers other than those specified in a CSP. Companies seeking to participate in any kind of RFP do so voluntarily and are not forced to accept the associated terms and conditions, whether mandated by State law in a COMA RFP or whether propounded by a large multi-location enterprise customer such as Bank of America or Fidelity.

Finally, in cross examination, the Department staff appropriately honed in the fact that Verizon appears to be arguing that Verizon's voluntary contractual interactions with its customer, the Commonwealth, should also bind DSCI, in violation of DSCI's rights under state and federal resale law and Verizon's tariffs.³⁴ Even though Ms. Jussaume testified it was outside the scope of her testimony,³⁵ Staff is correct that Verizon negotiates CSP agreements with the understanding that they are subject to resale obligations and cannot lawfully agree with its customer to limit the resale rights of a third party CLEC reselling that CSP under federal and state law. The same analysis holds true

³⁰ Tr. 60-63; see Exh. DSCI-VZ-2 and 3 (listing lengthy commercial RFIs and RFPs, several of which are larger than governmental requests).

³¹ Tr. 63-64.

³² Tr. 68-69.

³³ See Tr. 53 (Jussaume hearing testimony).

³⁴ See Tr. 71-75 (examinations of Mr. Isenberg and Ms. Foley).

³⁵ Tr. 74.

for Ms. Jussaume's belief that allowing resale of the COMA CSP will harm Verizon's ability to offer similar CSP deals in the future.³⁶ Verizon is required by federal law, and committed to the FCC in the Section 271 docket, that CLECs are permitted to resell CSPs at a wholesale discount.³⁷ Resale rights are (or should be) considered by Verizon in negotiating any CSP agreement, not just the COMA or Customer 38 CSPs.

B. Verizon Cannot Bar DSCI from Combining Tariffed Corporate Rewards Usage Rates with the Per-Line Rates in the COMA Contract.

The Department should also invalidate another anti-competitive position taken by Verizon during the CSP resale discussions. Pending responses to DSCI's requests for terms and conditions of the Customer 38 usage rates in conjunction with the per-line rates in the COMA Contract, DSCI requested Verizon's tariffed Corporate Rewards usage rates in combination with the COMA Contract per-line rates. Verizon initially accepted this approach and engaged in joint planning with DSCI but withdrew its approval in late March 2005, shortly after DSCI filed the instant Complaint.³⁸ Given Verizon's unwillingness to clarify the terms and conditions of the Customer 38 CSP, the denial of access to Corporate Rewards pricing has prevented DSCI from marketing the COMA Contract even to the entities enumerated in the COMA Contract (state and local agencies and limited other "eligible entities") that Verizon admits DSCI can serve at this time. Verizon's grounds for the denial have changed several times but continue to lack any basis in Verizon's tariffs or applicable law.

³⁶ Tr. 78-81 (cross-examination by Ms. Foley).

³⁷ See note 16 *supra*.

³⁸ See Exh. DSCI-18 (Dandley testimony) at 7.

The Corporate Rewards tariff provides a usage plan and discounts if a minimum usage requirement is met and the CLEC or other end user commits to sign a service agreement of varying lengths.³⁹ Relevant tariff provisions at MA DTE 10 Exchange and Network Services, Part A Section 15, Page 13, Paragraph 4, state expressly as follows:

Access lines included in customer specific pricing agreements are ineligible for the access line discount. However, customers with customer specific pricing agreements are eligible to subscribe to and receive the benefits of all the other Corporate Rewards Components.⁴⁰

Unless this provision, Verizon's tariff expressly authorizes DSCI and other CSP customers to "subscribe to and receive" all other benefits of Corporate Rewards other than "the access line discount" – i.e., the attractive usage rates that DSCI seeks to use in conjunction with the attractive rates per line in the COMA Contract.⁴¹ Verizon understandably wants to prevent customers from obtaining an access line discount from Corporate Rewards on top of already discounted per-line rates in the COMA Contract. Nevertheless, similar double discounting concern exists with combining the COMA Contract – which has no usage rates— with the usage rate discounts in Corporate Rewards.

Similarly, a separate provision of the tariff provides that Corporate Rewards is unavailable if enumerated forms of "usage" are already in place, such as calls made pursuant to a "customer specific pricing plan."⁴² As the COMA Contract CSP deals with

³⁹ See Verizon Tariff 10, Part A, Section 15, pp. 13-15. It also has been admitted as Exh. DSCI-19 to this proceeding.

⁴⁰ Id. (emphasis added).

⁴¹ Id.

⁴² Id., p. 13.

per-line rates and does not include any usage plan,⁴³ DSCI is entitled to combine the resold COMA Contract with Corporate Rewards usage in order to serve its end user customers.

Verizon's arguments for the inapplicability of Corporate Rewards are patently unpersuasive and must be rejected. In Ms. McCann's testimony and the response to DSCI 1-11, Verizon admits that the COMA Contract lacks usage rates.⁴⁴ Nevertheless, Verizon argues that since the COMA Contract required that "local and toll usage must be carried by the Telephone Company" (i.e., Verizon) and the only usage plan expressly approved by the State Procurement Regulations is the Customer 38 Contract, then the Customer 38 CSP should be deemed the usage plan for the COMA Contract.⁴⁵ This contorted analysis ignores plain language of Verizon's tariffs that (1) Corporate Rewards is available unless there is a CSP usage plan; (2) COMA Contract that DSCI seeks to resell does not have an associated usage plan; and (3) nothing in the COMA Contract or the text of the Customer 38 CSP requires that the Customer 38 CSP must serve as the usage plan associated with the COMA Contract.⁴⁶ Indeed, once Verizon discloses sufficient information regarding the remaining terms and conditions of the Customer 38 CSP for DSCI to sign on for its use, DSCI would have the right to combine the COMA Contract with Corporate Rewards or with Customer 38 – each "carried by the Telephone

⁴³ See Exh. DSCI-4 (COMA Contract tariff); see Exh. DSCI-VZ-11 (discovery response admitting that COMA Contract lacks a usage plan).

⁴⁴ See Exh. VZ-2 (McCann Testimony) at 6; Exh. DSCI-VZ-11.

⁴⁵ See Exh. DSCI-VZ-11 (Response to DSCI 1-11).

⁴⁶ Compare Exh. DSCI-19 (Corporate Rewards tariff) with Exhs. DSCI-4 (COMA Contract tariff) and DSCI-11 (Customer 38 tariff).

Company” -- based on whichever usage plan best meets the needs of the particular customer.

C. Verizon Should Be Ordered to Answer the Remaining Questions Regarding the Customer 38 Contract.

The Customer 38 CSP provides attractive high capacity voice and data pricing for services that are consistent with those sold to the entire DSCI customer base.⁴⁷ In December 2004 and again on January 10, 2005, DSCI requested information on the terms and conditions for this CSP so that it could offer these services in combination with the COMA Contract to meet DSCI’s customer needs.⁴⁸ The resulting process has been, from DSCI’s standpoint, a fiasco. After an initial delay in responding, Verizon changed its position several times on the minimum volume commitments, including once after DSCI confirmed it could meet the commitment cited.⁴⁹ Verizon took until mid-March—more than two months from the January 10 e-mail—to develop a final position regarding the volume commitments for usage under this CSP, finally doing so only DSCI advised Verizon of the imminent filing of the instant Complaint.⁵⁰ It then took Verizon another two months after the Complaint was filed (from March 24 to May 21, 2005) to identify the tariff pricing that would apply in the event DSCI did not meet volume requirements and the parties could not reach agreement through negotiation on an appropriate alternative rate.⁵¹

⁴⁷ Exh. DSCI-18 (Dandley Testimony) at 6.

⁴⁸ Id.; Exhs. DSCI-6 and DSCI-7.

⁴⁹ Exh. 18 (Dandley Testimony) at 6.

⁵⁰ Id.

⁵¹ Id. at 6-7; see DSCI-VZ-10 (discovery response by Verizon mentioning disclosure of tariff terms in a May 21, 2005 e-mail).

This belated disclosure by Verizon still has not made the Customer 38 Contract available for DSCI's use. As discussed by Mr. Dandley during the evidentiary hearing, following its opportunity to review the Customer 38 Contract materials, DSCI asked Verizon to clarify whether Verizon would interpret certain contract language as meaning that DSCI could terminate services without incurring a penalty. This is a highly relevant term, as DSCI cannot enter into a resale agreement without knowing the scope of its potential liability. Verizon has refused to answer DSCI's reasonable request for Verizon's position on the interpretive issue.⁵²

The Department should order Verizon to respond to DSCI's request. It is not a reasonable response to say, as Verizon did, for DSCI to consult with its lawyer. DSCI knows what DSCI believes the termination provision means.⁵³ The pertinent issue is whether Verizon shares this interpretation, thereby allowing DSCI to determine the extent it can resell the Customer 38 CSP without triggering litigation from Verizon. Until DSCI knows whether Verizon shares DSCI's interpretation of the relevant clause, DSCI cannot take action under the resold agreement without inviting expensive and disruptive litigation. DSCI asks the Department to resolve this impasse and direct Verizon to

⁵² See Tr. 42-44; see also Exh. VZ-4 (June 2005 e-mail correspondence between Mr. Dandley and Verizon's counsel regarding Customer 38 open items).

⁵³ Department staff properly focused on this point in cross-examination. See Tr. at 100-01 (cross-examination by Mr. Isenberg regarding DSCI's ability to serve present Verizon customers). Verizon contends that service to its customer has to be terminated for DSCI to offer resold services to the customer. Tr. 104-05 (McCann testimony). Thus, the issue of whether a customer interested in DSCI can terminate without penalty is of importance to DSCI.

disclose its position on the referenced provision so that DSCI can determine whether it makes sense to use the Customer 38 Contract in conjunction with the COMA Contract.⁵⁴

D. The Department Should Establish Prompt Time Limits for Verizon to Provide Complete Responses to CSP Resale Inquiries.

DSCI has asked for Verizon to provide complete disclosure of relevant terms and conditions for reselling the COMA, Customer 38 and Cape Cod Savings Bank CSPs without receiving prompt or complete responses at any point. The DSCI Complaint and post-Complaint course of dealing discussed in testimony, discovery and the evidentiary hearing make amply clear that without Department intervention there is no assurance that DSCI or other CLECs would get a prompt and complete response to inquiries seeking information on reselling a Verizon CSP.

Whether due to unfamiliarity with the CSP resale process, poor coordination among Verizon departments, or a disinclination to devote internal resources to facilitate a potentially potent new form of resale competition, Verizon has delayed and, to date, prevented DSCI's exercise of its rights to resell CSPs under federal and state law. These delays are of grave concern, especially where Verizon can use its established CSP approval process to offer below-tariff telecommunications contracts to the same customers that CLECs seek to serve using resold CSP while the CLECs are waiting for a definitive response as to the terms and conditions of resale.⁵⁵ Verizon's offering of a scant one page request form without input from CLECs⁵⁶ (Exh. DSCI-20) and its startling

⁵⁴ Verizon likely has implicitly or explicitly construed this term in practice during the its course of dealings with the Commonwealth, but refuses to disclose its position to DSCI.

⁵⁵ This is precisely what happened with DSCI's customer, Colonial. While DSCI was playing "Go Fish" trying to find a CSP to resell to serve this customer, Verizon Retail placed a CSP offer on the table to the customer. See Exh. DSCI-18 (Dandley Testimony at 13).

⁵⁶ Exh. DSCI-20 (CSP request form); see Tr. 88-89 (testimony of Ms. McCann).

failure to circulate the new notice it developed in July to DSCI or to any other CLECs in industry mailings or otherwise⁵⁷ demonstrate that Verizon still fails to take seriously its CSP resale obligations. Accordingly, Verizon should be subject to Department-mandated guidelines.

DSCI has offered a reasonable proposal in Mr. Dandley's testimony: a complete response from Verizon should be provided within 14 days, with one additional 14 day extension for responding to complex requests. This proposal is consistent with Verizon's own goals as stated by Ms. McCann for responding to CSP requests⁵⁸ and with Verizon's internal process for approving Verizon Retail requests for approving CSP agreements for its own purposes.⁵⁹ The proposal also accords with applicable federal and state non-discrimination requirements.⁶⁰ The Department should implement it by Order to assure prompt responses to CSP resale inquiries. The Order should provide expressly that Verizon disclose all material terms and conditions, not just a summary of provisions or unsubstantiated conclusions (e.g., "pricing will revert to tariff"; or the CSP is "subject to geographic limitations") that would require additional inquiries and delays.

⁵⁷ Tr. 89 (explaining Verizon circulated the form to CLECs because of "no demand" but ignoring the likelihood that a demand would arise if it circulated the form to other CLECs so that they were aware of this option).

⁵⁸ Tr. 93-94 (hearing testimony of Ms. McCann that Verizon's goal is to respond to resale requests within 10 days).

⁵⁹ Exh. DSCI-VZ-1-7 Supp. (Verizon Retail CSP Preapproval Process); Tr. 15-16 (Dandley testimony that Verizon Retail CSP Approval Process could be as short as five days and not longer than 25 days, which is consistent with DSCI's request for a 14 day response and one 14 day extension (totaling not longer than 28 days)).

⁶⁰ See 47 U.S.C. § 251(c)(4)(B)(barring discriminatory conditions on resale); G.L. c. 159, § 14(barring "unjustly discriminatory" practices by common carriers).

Conclusion

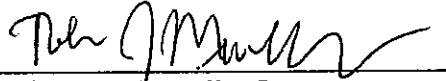
Accordingly, for the foregoing reasons, DSCI requests that the Department Order the following relief:

1. Order Verizon to make available the COMA Contract CSP to DSCI for resale to its customers and reject as unreasonable and discriminatory Verizon's claim that it can limit DSCI's ability to resell the COMA Contract to the self-selected customer classes Verizon has identified;
2. Order Verizon to allow DSCI to combine Corporate Rewards tariffed services with the COMA Contract;
3. Order Verizon to respond to DSCI's remaining issue regarding Verizon's interpretation of termination language in the Customer 38 Contract, so that DSCI can decide whether to use that CSP in combination with the COMA Contract;
4. Order Verizon to provide prompt, complete and documented responses to requests seeking to determine whether DSCI or other CLECs qualify for resale of a CSP, within 14 days of a request, with one 14 day extension available in special circumstances, or such other reasonable schedule as determined by the Department;
5. As it sees fit, the Department should impose a monetary fine on Verizon, to be paid to DSCI, as reparation for the substantial

delays and lack of response to DSCI's requests to provision
services under relevant CSP terms and conditions;

6. Order any other relief that the Department deems meet and just.

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